IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

Bail Appl..No. 4184 of 2007()

CMP.2256/2007 of DISTRICT COURT, PALAKKAD
CRIME NO.91/07 OF HEMAMBIKA NAGAR POLICE STATION

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APPLICANTS/ACCUSED NOS.2 & 3:

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1. RAMACHANDRAN, AGED 57 YEARS,
S/O. RAGHAVA PANICKER, SANDHYA, SOORYA NAGAR,
AKATHETHARA, PALAKKAD.

2. MALINI CHANDRAN, AGED 52 YEARS,
W/O. RAMACHANDRAN, RESIDING AT SANDHYA,
SOORYA NAGAR, AKATHETHARA, PALAKKAD.

BY ADV. SRI.P.VIJAYA BHANU
SRI.M.REVIKRISHNAN

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR
SRI.G.JANARDHANA KURUP (SR.)
SRI.JOHN K.GEORGE
SRI.P.K.VARGHESE
SRI.K.S.ARUNKUMAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 12/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. NO. 4184 OF 2007

Dated this the 12th day of July, 2007

ORDER

Application for anticipatory bail. The petitioners are accused 2 and 3. They are the father and mother of the 1st accused. They face allegation in a crime registered under Sec.304-B of the IPC. That crime was registered on the basis of a complaint lodged by the father-in-law of the 1st accused. The 1st accused had married the daughter of the de facto complainant on 3/9/2000. The spouses, after marriage, were residing in California – U.S.A. The wife of the 1st accused was allegedly studying for a Post Graduate Degree. The wife of the 1st accused is no more. While the 1st accused and the deceased were living in California, she allegedly suffered burn injuries. Information was conveyed to the de facto complainant on 18/8/2004 and he along with his wife rushed to the U.S. to attend on their daughter. She succumbed to the burn injuries

on 3/9/04. Long later, the 1st accused on his trip to India thought of calling on the parents of his deceased wife. He allegedly called on them on 10/6/07. Some untoward incident occurred on that day about which a complaint was filed by the de facto complainant herein alleging physical assault by the 1st accused against the wife of the de facto complainant. The relationship evidently soured on the basis of that incident and the subsequent complaint.

2. Later, on 19/6/07 the de facto complainant preferred a complaint before the learned Magistrate which has been referred by the learned Magistrate to the police under Sec.156 (3) of the Cr.P.C. In that, it is alleged that the daughter of the de facto complainant had met with her death under suspicious circumstances. She was either put to death or she had committed suicide, it is alleged. It is alleged that the matrimonial cruelty which emanated from the 1st accused as well as the parents, the petitioners was responsible for such death. A crime has been registered. Investigation is in progress. The petitioners apprehend imminent arrest.

3. The crucial allegation which has any bearing on the complicity of the petitioners appear in para-3 of the complaint which I extract below:

> "3. After the burial the complainant and his wife returned to Palakkad with entertaining serious doubts about the death of their daughter. The suspicion grew intense in the light of the demand for dowry made by the 2nd and 3rd accused on different occasions. It is also submitted that the 2nd and 3rd accused had expressed their displeasure and disappointment for not having been given any dowry amount or gold ornaments at the time of marriage. The deceased had on several occasions spoken painfully over telephone to the complainant and his wife about the demand of dowry. She had even gone to the extent of saying that her marital life is not safe unless and until the complainant satisfy the greedy demands made by the accused. The complainant was not in a position to satisfy the unreasonable demands of dowry made by the accused No.1 to the deceased. But the complainant never apprehended that such demands would snowball into a catastrophe as above mentioned."

4. The learned counsel for the petitioners submits that it is transparently evident from the sequence of events that the

belated complaint is not genuine or bona fide and that the unfortunate incident which occurred after the 1st accused called on the de facto complainant is the motive behind the present complaint. No specific allegation of demand of dowry or matrimonial cruelty emanating from the petitioners is even made in the complaint. In these circumstances, the old parents of the 1st accused may not be subjected to the undeserved trauma of arrest and incarceration in prison, submits the learned counsel for the petitioners.

5. The learned Public Prosecutor, on instructions, submits that the State has no objection against the grant of anticipatory bail on condition that appropriate safeguards may be insisted in the interests of a fair, efficient and expeditious investigation.

6. The de facto complainant has come on record and has got himself impleaded without any objection from the petitioners and the State. The learned counsel for the additional 2nd respondent/the de facto complainant submits that the de facto complainant has received a raw deal from the police. There has been no proper investigation in the crime. Prompt action was also not forthcoming. Even though a complaint was filed earlier before the police, no proper action was taken. This had obliged the de facto complainant to go to the learned Magistrate and file

a complaint and get the same referred to the police under Sec.156(3) of the Cr.P.C. Even thereafter, there is no proper investigation by the police. The 1st accused, who was available in India at the time of filing of the complaint, has now been permitted to go abroad on account of want of proper and prompt action on the part of the police. The learned counsel for the petitioners submits that, in these circumstances, the petitioners may not be granted anticipatory bail. There are no circumstances justifying the invocation of the extraordinary equitable discretion in favour of the petitioners, submits the learned counsel for the de facto complainant.

7. I have considered all the relevant inputs. At this early stage of the investigation, I shall scrupulously avoid any expression of opinion on the acceptability of the allegations or the credibility of the data collected. Suffice it to say that, on an anxious consideration of all the relevant inputs, I am satisfied that this is an eminently fit case where directions under Sec.438 of the Cr.P.C. can and ought to be issued in favour of the petitioners. In coming to this conclusion, I have taken particular note of the broad probabilities, the belated nature of the complaint, the non-specific allegation against the petitioners, the fact that the spouses were residing together in U.S. for a long

time while the petitioners were residing in India as also the age of the petitioners. I have also taken note of the fact that the interests of a proper investigation will not in any way be prejudiced by issue of such directions under Sec.438 of the Cr.P.C.

8. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioners shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 19/7/07. They shall be released on regular bail on their executing bonds for Rs.25,000/- each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 1 p.m. on 20/7/07 and 21/7/07 and thereafter on all Mondays between 10 a.m. and 12 noon for a period of one month. Subsequently, they shall so make themselves available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(iii) The petitioners shall not leave India without prior permission of the learned Magistrate.

(iv) If the petitioners do not appear before the learned

Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if those directions were not issued at all;

(v) If the petitioners were arrested prior to their surrender on 19/7/07 as directed in clause (i) above, they shall be released on their executing bonds for Rs.25,000/- each without any sureties undertaking to appear before the learned Magistrate on 19/7/07.

9. Hand over a copy of this order to the learned counsel for the petitioners.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge